

April 23, 2004

Mr. Lon C. Levin
Vice President
Mobile Satellite Ventures Subsidiary LLC
10802 Parkridge Boulevard
Reston, VA 20191

Re: Application of Mobile Satellite Ventures Subsidiary LLC for Authority to Launch, and Operate Replacement Mobile Satellite Service Space Station @ 101 W.L., Call Sign S2358, File No. SAT-AMD-20040209-00014.

Dear Mr. Levin:

On February 9, 2004, Mobile Satellite Ventures Subsidiary LLC (MSV) filed an amendment to its pending application¹ for its next generation Mobile-Satellite Service (MSS) system to request an additional 50 megahertz of spectrum in each direction for feeder links in Ku-band frequencies (10.70-10.75 GHz (downlink) and 13.15-13.20 GHz (uplink)) which are subject to the Appendix 30B Plan of the International Telecommunication Union.² For the reasons discussed below, we dismiss the amendment as defective without prejudice to refile.

The Commission requires all applications for space station licenses to be substantially complete when they are filed. Applications that are not substantially complete are returned to the applicant without further processing.³ The Commission's Part 25 Rules set forth various

¹ See Amendment of Mobile Satellite Ventures Subsidiary LLC, File No. SAT-AMD-20031118-00335 (filed November 18, 2004). MSV filed its original application for a replacement satellite in July 1998. See application of AMSC Subsidiary Corporation, File No. SAT-LOA-19980702-00066 (July 02, 1998). On December 14, 2000, MSV filed an amendment requesting authority to use an additional 250 MHz of Ku-band spectrum in each direction for feeder links. See Amendment of Motient Services, Inc. SAT-AMD-20001214-00171. MSV also filed an amendment to (i) assign licenses and pending applications of Motient Services, Inc. (Motient) to Mobile Satellite Ventures Subsidiary LLC; (ii) modify Motient's licenses and pending applications to permit MSV to operate using certain Canadian-licensed facilities; and (iii) launch and operate the next generation mobile satellite system. See Amendment of Motient Services, Inc. SAT-AMD-20010302-00019 (March 2, 2001).

² See *Provisions and associated Plan for the fixed-satellite service in the frequency bands 4500-4800 MHz, 6725-7025 MHz, 10.70-10.95 GHz, 11.20-11.45 GHz and 12.75-13.25 GHz*, International Telecommunication Union APPENDIX 30B.

³ See e.g., Amendment of the Commission's Space Station Licensing Rules and Policies, *First Report and Order and Further Notice of Proposed Rulemaking*, IB Docket No. 02-34, 18 FCC Rcd 10760, 10852 (para. 244) (2003) (*First Space Station Reform Order*) citing Amendment of the Commission's Space Station Licensing Rules and Policies, *Notice of Proposed Rulemaking*, IB Docket No. 02-34, 17 FCC Rcd 3847, 3875 (para. 84) (2002).

information requirements that applicants must provide in their space station applications.⁴ In particular, for applicants requesting launch and operating authority for space stations in the Fixed-Satellite Service (FSS), Sections 25.140 and 25.114 of the Commission's rules require, among other things, an interference analysis.⁵ The interference analysis must demonstrate that the proposed FSS satellite system will be compatible with the Commission's two-degree orbital spacing environment. On December 3, 2003, the International Bureau released a Public Notice clarifying the types of showings that must be provided and stating that applications filed after December 3, 2003 that do not contain this analysis will be dismissed as incomplete.⁶

MSV did not submit an interference analysis with its February 2004 amendment. An interference analysis, which falls under the method described in Option 3 in the Public Notice, shows the potential for interference into and from carriers of adjacent satellites spaced 2 degrees away from the proposed satellite.⁷ This analysis must include the r.f. characteristics of both interfering and interfered with carriers, as well as the resulting interference potential, such that the Commission or other applicants in the future course of consideration of this application can complete the analysis.⁸ This information was not provided in the amendment. Consequently, MSV's amendment is defective under Section 25.114(b) of the Commission's rules, 47 C.F.R. § 25.114(b) and must be returned pursuant to Section 25.112(a), 47 C.F.R. § 25.112(a).

Finally, MSV has recently requested clarification that the inclusion of another application⁹ in a March 26, 2004 Public Notice¹⁰ does not alter the Commission's first come, first served processing of applications for geostationary satellite orbit space stations.¹¹ As MSV notes, the mere appearance of an application on a Public Notice as acceptable for filing does not

⁴ See 47 C.F.R. Part 25.

⁵ 47 C.F.R. § 25.140(b)(2) and § 25.114 (c)(17).

⁶ See Clarification of 47 C.F.R. § 25.140(b)(2), Space Station Application Interference Analysis, *Public Notice*, No. SPB-195, DA 03-3863 (rel. Dec. 3, 2003).

⁷ See 47 C.F.R. § 25.140; Licensing of Space Stations in the Domestic Fixed-Satellite Service and Related Revisions of Part 25 of the Rules and Regulations, *Report and Order*, CC Docket No. 81-704, FCC 83-184, 54 Rad. Reg. 2d 577 (rel. Aug. 16, 1983); *summary printed in* Licensing Space Stations in the Domestic Fixed-Satellite Service, 48 F.R. 40233 (rel. Sept. 6, 1983) (*Two Degree Spacing Order*).

⁸ Submission of the tabular results generated by the Sharp, Adjacent Satellite Interference Analysis (ASIA) program meet the requirement for this analysis.

⁹ File No. SAT-LOA-20040210-00015.

¹⁰ Satellite Space Applications Accepted for Filing, Policy Branch Information, *Public Notice*, Report No. SAT-00203 (rel. March 26, 2004) (*March 26 Accepted for Filing PN*).

¹¹ *Ex Parte* Letter to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission, from Mr. Lon C. Levin, Vice President, Mobile Satellite Ventures, Subsidiary, LLC, dated April 14, 2004.

alter our policies regarding the processing of applications.¹² In fact, the Public Notice referenced by MSV specifically included language to that effect.¹³

Accordingly, pursuant to the Commission's rules on delegated authority, 47 C.F.R. § 0.261(a)(4), we find that MSV's amendment, File No. SAT-AMD-20040209-00014, is defective. We therefore dismiss this amendment without prejudice to refiling.¹⁴

Sincerely,

Thomas S. Tycz
Chief, Satellite Division
International Bureau

cc: Bruce D. Jacobs
Shaw Pittman LLP
2300 N Street, NW
Washington, D.C. 20037

Pantelis Michalopolous
Steptoe & Johnson
1330 Connecticut Avenue, NW
Washington, DC 20036-1795

¹² See *First Space Station Reform Order*, 18 FCC Rcd 10760.

¹³ *March 26 Accepted for Filing PN* (noting that "[c]onsideration of each satellite application in this Public Notice may depend on the Commission's action on another satellite application earlier in the queue.").

¹⁴ MSV would not be charged an application fee if it refiles an identical amendment with the exception of including the missing technical analysis. See 47 C.F.R. § 1.1109(d).